

BOARD OF POLICE COMMISSIONERS

Minutes of the Regular Board of Police Commissioners Meeting Thursday, June 3, 2004

The regular community meeting of the Detroit Board of Police Commissioners was held on Thursday, June 3, 2004, at 3:00 p.m., at Police Headquarters, 1300 Beaubien – Rm. 328-A, Detroit, MI 48226.

ATTENDANCE

Board Members Present

Willie E. Hampton
Arthur Blackwell, II
Erminia Ramirez
Jim Holley
Megan Norris

Department Personnel Present

AC Walter Shoulders
DC Debra Robinson
DC Willie Burden
Cmdr. Willie Martin
Insp. Jamie Fields
Sgt. Debbie Jackson
Atty. Nancy Ninowski
PO Quentin Maxey
PO Miguel Benavides

Board Staff Present

Dante' L. Goss, Exec. Director
Denise R. Hooks, Attorney/Supervising Inv.
Arnold Sheard, Interim Chief Investigator
Damon Nunn, Police Commission Investigator
Michelle McDonald, Community Affairs Coordinator
E. Lynise Bryant-Weekes, Personnel Director

OTHERS PRESENT

Atty. John Goldpaugh, DPOA
Herman Vallery
Nancy Yousseff
Sandra Hines
Gloria Canales
Ms. Walters

Phillip Craccioholio

RECORDERS

Jerome Adams
Kellie Williams

1. CALL TO ORDER

Chairperson Hampton called the regular meeting of the Detroit Board of Police Commissioners to order at 3:10 p.m.

2. APPROVAL OF MINUTES

♦ Thursday, May 27, 2004

MOTION: **Comm. Ramirez** made the motion to approve the above Minutes.

SECOND: **Comm. Holley** seconded the motion.

VOTE: All in attendance voted in the affirmative.

3. REPORT FROM THE CHAIR

There was no report from the Chair.

4. SECRETARY'S REPORT – EXEC. DIR. GOSS

Suspension

On June 3, 2004, **Police Officer Unika Patrick**, Badge 4730, assigned to the Fifth Precinct, was suspended **without pay** by Chief Ella M. Bully-Cummings.

On May 28, 2004, the Professional Accountability Bureau, Internal Affairs Section, was notified by Canadian Customs of the arrest of Police Officer Unika Patrick, badge 4730, assigned to the Fifth Precinct, for transporting a firearm across international borders. As a result, the Internal Affairs Section initiated an investigation, which revealed the following:

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That on May 28, 2004, Officer Patrick (front seat passenger of vehicle), and two (2) acquaintances were stopped by Canadian Customs as they were attempting to enter into Canada through the Detroit/Windsor Tunnel. Upon request, all occupants of the vehicle provided identification. The Custom's officer asked if anyone in the vehicle was in possession of a firearm, mace or pepper-spray. All of the occupants, including Officer Patrick, stated they were not in possession of any firearms or any other weapons. The vehicle and occupants were referred to Customs Secondary, for further examination.

During the search at Customs Secondary, a Custom's officer noticed a small Detroit Police badge on the end of Officer Patrick's necklace. The Custom's officer asked Officer Patrick if she was a Detroit Police Officer, to which she responded, "Yes." The Custom's officer asked if she was in possession of a weapon, to which she responded, "Yes." A fully loaded, Department issued weapon (Glock, Model 22, .40 caliber) was seized from Officer Patrick. Subsequently, Officer Patrick was arrested and charged with "Failing to Report Goods." Failing to Report Goods is a misdemeanor under Canadian law, punishable by six (6) months in jail and/or a fine of \$50,000.00.

On May 28, 2004, members of the Internal Affairs Section responded to the Canadian Customs Office and suspended Officer Patrick with pay. On May 29, 2004, Officer Patrick appeared for arraignment and was released on a \$500.00 bond. Her court date is scheduled for June 28, 2004.

Based on the above circumstances, it is recommended that Officer Patrick be charged with, but not limited to the following violation of the Detroit Police Department Rules and Regulations:

CHARGE: CONDUCT UNPROFESSIONAL; CONTRARY TO THE LAW ENFORCEMENT CODE OF ETHICS, THIS BEING IN VIOLATION OF THE DETROIT POLICE DEPARTMENT MANUAL, SERIES 100, DIRECTIVE 102.3-5.7, CONDUCT UNBECOMING AN OFFICER, SECTION 3.

Exec. Dir. Goss stated John Goldpaugh is here to argue on behalf of the officer.

Atty. Goldpaugh stated I have been provided with a copy of the request to suspend, which was forwarded to my office today and I appreciate that. I would like to indicate to Mr. Goss that from this day forward since the Board has the petition and the alleged facts, that it would not be necessary to read the entire petition for any further matters because the petition has been presented for an expediency standpoint, unless of course the Department

feels necessary. I have had an opportunity to discuss the matter briefly with Officer Patrick and though we are not here to discuss the merits of the case against Officer Patrick over in Canada or the misdemeanor charges brought against her, but rather whether or not the suspension without pay based on this claim by the Department would be in violation of Article 9, and that is the whole issue here, not whether or not she is guilty of taking a gun to Canada or whether she is guilty of a misdemeanor over there or anything else. I would point out to you that at least in my discussions with Officer Patrick, she denies that when they were going over that she was asked whether or not she had a weapon on her, she has indicated to me that she had every intention of reporting the weapon and thought she would be reporting it over there, but she wasn't sure exactly how. It was when she was brought into customs because of an altercation, not between her or the driver of the vehicle, but someone else who was in the rear, that is when they were sent over and that is when she brought this to their attention, feeling that was when she was suppose to do that. That of course did question the fact for someone to decide down the road whether or not she told them when she was going through the booth to no I didn't have a weapon, or whether or not something had occurred later. We hear because the Department has alleged that this misconduct or alleged misconduct raises to a point that there has been a violation so severe that this Department should without a hearing or without any type of adversarial proceeding suspend this officer without pay when she has been charged with a misdemeanor, according to my information that I was providing, a failure to report goods in Canada and has a six month incarceration expect of it. It is also obvious that she has taken the weapon into Canada, which is violation of the rules and regulations; however that is not a firing offense.

We have had a number of officer who have inadvertently, intentionally, or not knowing what they are suppose to do have taken their weapons over into Canada and when it was discovered, they did not get fired for it by this Department.

Comm. Norris stated in my time here, I remember one similar incident where we did suspend that person without pay. She asked do you know what ultimately happened to that one?

Atty. Goldpaugh stated the one that you suspended without pay had something to do with him taking the weapon over into Canada. I also believe that was Officer Allen.

Comm. Norris stated I don't remember the name, but it was the one who shot himself.

Atty. Goldpaugh stated that's the one.

Vice Chairperson Blackwell asked are you calling that similar?

Atty. Goldpaugh stated Officer Allen shot himself and he was allegedly intoxicated and it was his third drinking offense.

Comm. Norris asked do you know what happened in Canada?

Atty. Goldpaugh stated no.

Comm. Norris asked do you know what happened in the Department?

Atty. Goldpaugh stated I don't believe that the Departmental charges have gotten that far, only because Officer Allen had a lot of other problems.

Comm. Norris asked did he remain suspended without pay, but the disciplinary process hasn't been completed yet?

Atty. Goldpaugh stated that is correct, because of his other problems I believe that the previous drinking and driving offenses he could be fired by the Department anyway and I think that is where we were proceeding.

Comm. Norris asked did Canadian authorities confiscate the weapon?

Atty. Goldpaugh asked in this case?

Comm. Norris stated yes.

Atty. Goldpaugh stated I believe they did. Though I believe that Internal Affairs came and got the gun back.

Insp. Fields stated if the gun is forfeited then we will not get the gun back.

Atty. Goldpaugh stated if a department member loses a weapon, then he or she is ultimately responsible for that as well. Again we are getting back to under Article 9 is this they type of situation without benefit of all of the facts

Vice Chairperson Blackwell asked whether the customs officer/immigrations officer ask her whether or not if she had a weapon, is taking a weapon to Canada illegal?

Atty. Goldpaugh stated there is a point she cannot take it beyond a certain point, I don't know if they turn their weapons over in Canada to pick up or they have to turn them in over here. I can't answer the question, but I do know that it has to be declared.

Vice Chairperson Blackwell asked so there is a mechanism where someone goes through and declares it, are they are able to check it at...?

Atty. Goldpaugh stated yes, but I don't know which side of the river. Since I don't have to do that or I don't have a weapon, I can't answer that question.

There is no doubt that at the time she was on the Canada side, she had her weapon with her, which is not the issue at this point. There is a require that she make certain announcements about that and that was what I was indicating and that she indicated to do at that point of time.

Atty. Ninowski stated this is Department's petition to suspend the duty status of Officer Patrick without pay. The issue before the Board is what Mr. Goldpaugh has indicated is underlined in the Article 9 of the Agreement and is the conduct egregious such that a suspension without pay is warranted. Of course the Department's position is that it is. Officer Patrick is going to Canada with two of her friends, they stop at Canadian Customs, the customs officer asked Officer Patrick if she has a weapon or a firearm, to which she responds no. The customs officer then questions the passenger in the back seat of the vehicle about is identification; he gave him a state identification, so he thought the answers were evasive so the customs officer sent the vehicle and the occupants over to secondary customs. The occupants were ordered to exit the vehicle, so that they vehicle could be search and the occupants to the vehicle could be searched. Officer Patrick did not identify herself as a Detroit Police Officer nor did she indicate at that point that she was carrying a weapon. The customs officer then began a pat-down search of the occupants, he began to search Officer Patrick, she did not identify herself as a police officer nor did she indicate that she had a weapon. Only after the customs officer saw a charm hanging from her neck that said "Detroit Police Department," and asked her if she was a Detroit Police Officer, did she responded yes and asked her if she was carrying a weapon or firearm, did she respond yes. Subsequently, she was arrested and charged as Mr. Goldpaugh indicated and as indicated in our petition and held overnight at customs and arraigned the next morning. I don't know the motivation for her lying to the custom officer, I have no idea. We need to really look at the fundamental basis of the facts. You have a Detroit police officer, who is entrusted at some point during her academy stint with a weapon. When they leave the academy that weapon becomes second nature, they don't leave the house without that weapon. It is second nature because that is their chosen profession, that's what they do, they carry a gun. Here, you have a police officer who is asked by a customs officer if she is carrying a weapon she responds no. Further, she does not offer that information when ordered to exit the vehicle and subjected to a pat down search. She doesn't tell them. I don't know any cop that would not identify themselves as a police officer or indicate that they have a weapon on them. She is here to today because of her acts and she has to

be responsible for those actions. The corpse of the Department's case is based on credibility and integrity. If you look at previous arbitration decisions, mainly **Pollard** and most recently **Redmond**, you know that the conduct is what is at issue here and to determine whether or not the conduct is egregious, you would look at the conduct itself and you would evaluate it. Certainly the conduct is a violation of the rules and regulations of the Detroit Police Department; there is no question about that. Look at the conduct in terms of the department itself and the impact that it has on the department. The core function of a police officer is truthfulness and veracity and she violated that with very poor function, when she failed to answer truthfully to the customs officer. To take that argument a little further, this officer testifies in court, she swears to an oath in court, based on her testimony people are sent to jail and yet she can't answer a customs officer truthfully. The Department respectfully requests that you concur with the Chief's decision and uphold the suspension without pay. Thank you.

Comm. Ramirez asked if the officer stated in the beginning that yes, I do have a firearm, what would have happened?

Atty. Ninowski stated my understanding is that they would turn them around and say go secure your weapon or they make provisions to secure the weapon there.

Comm. Holley asked did she get beyond the United States customs to get to Canada?

Atty. Ninowski stated yes, she did get beyond the United States customs?

Comm. Norris stated you just pay your money.

Comm. Holley asked is there a benchmark for the Department in terms of paying without pay kind of a thing or do you just take it case by case?

Atty. Ninowski stated it is a case by case evaluation and I think if you look at previous arbitration decisions starting with Grover, which really started the whole evaluation of suspensions without pay under the Collective Bargaining Agreement (Article 9F) and carry it through to present day with Officer Pollard and Officer Redmond, it would tell you that it is a case by case basis.

Comm. Holley asked is there a benchmark or if there is some way that I could have some integrity about making my decision in regards to being fair to the officer or that there is some level of fairness?

Atty. Ninowski stated it is a case by case basis and we have been before the Board with respect to false statements and I understand the symatical

challenges that you may have because perjury has certain connotations in the law and requires certain proofs of false statements and less than truthful is a little bit different than that. The arbitration decisions give you guidance in terms of the standard to apply and the evaluation that you apply to each of the cases. As I indicated the question that you ask yourself is, "Is this conduct egregious?" How do you determine that? You would look at the act and under the act you determine whether or not if it is in violation of the criminal law or is it a violation of the rules and regulations of the Department.

Comm. Holley asked did someone end up in jail in result of this violation?

Atty. Ninowski stated yes, stated from the Internal Affairs investigation, it is my understanding that Officer Patrick was held over night by customs and arraigned the next morning in Canada.

Comm. Ramirez asked is what the custom officer is saying versus what the police officer is saying? Or did she get to the point where she was able to say yes, I am a police officer and I am carrying a gun?

Atty. Ninowski stated when she arrived at the secondary check-in and they began to pat her down and they notice the medallion or the charm around her neck, they asked her.

Comm. Ramirez asked is the customs officer the one that is saying this?

Atty. Ninowski stated yes, the internal affairs investigation is based on reports from customs officers.

Chairperson Hampton asked have they been charged with a crime and arraigned?

Atty. Ninowski stated yes, she has been charged with a crime and she has been arraigned?

Vice Chairperson Blackwell asked in Canada?

Comm. Norris stated yes.

Vice Chairperson Blackwell asked if Officer Patrick forgot to mention that she had a weapon and got scared once she realized didn't declare it, is that someone trying to be egregious or someone being criminal or that someone made an honest mistake? He also asked is this an officer with a record, does she have any other issues or is this the first offense? He voiced a concern that if they did a thorough job of patting her down, they wouldn't have to ask her if she had a weapon, they would have found it. If this is all the information

that we have, the issue is, if she made an honest mistake, I want to know if it was illegal to take your gun over there, but if you tell me that you could get to customs and tell them that you have a gun and there is a process where they turn you around and check it in. Then the only thing is, if she is telling truth and they didn't ask her, then the question is she any worse than someone that takes it over there and hadn't had it confiscated because they told the truth. I ask that because, that is an arraignment possibility and because that is our job.

Atty. Ninowski stated I will leave that to your discretion.

Vice Chairperson Blackwell stated I need to know the answer if....

Atty. Ninowski stated I did not understand the question.

Vice Chairperson Blackwell stated the question is that if this is the only issue...I mean, they were going, I don't know where they were going, they generally ask you where you are going to, but that didn't come up...The issue is that if this is an honest person that made an honest mistake, the issue is that there should be some sanction. The issue is when you take someone's check away from them and that is the only way that they survive, I don't think that is a decision that we should make lightly, we should try to get as much facts as we can. I think that all we are trying to do today is found out more information. If you are telling me that this is the customs word against her word, then that is an issue from experiences that I have seen. He asked in the customs report, did they see her medallion and then ask her or did they search her first and then ask her?

Atty. Ninowski stated from the report, they began their pat down search and saw the medallion and then asked her if she was a Detroit Police Officer and then asked her if she was carrying a weapon.

Vice Chairperson Blackwell asked while they were patting her down?

Atty. Ninowski stated they had started the pat down with the pocket area and saw the medallion and stopped and asked her if she was a Detroit Police Officer and if she was carrying a firearm?

Comm. Holley asked what is the procedure for a police agency identifying themselves to another police agency?

Vice Chairperson Blackwell asked does anyone have a copy of the report because I am concerned that they stopped in the middle of the search and ask a question?

Atty. Ninowski stated that is my interpretation of the report, that is how I read it, that they began their pat down and notice the medallion and asked her if she was a Detroit Police Officer at that point.

Atty. Goldpaugh stated I don't have the reports, I only have the petition that was filed and the same one that you have seen, so I don't know what it specifically says in the reports. Officer Patrick informed me that when they stopped initially that she had totally forgotten. They had asked for identification, she and the driver of the vehicle had shown the identification. They gentleman in the rear, as Ms. Ninowski indicated, did not have his driver's license or didn't have the proper identification. He then became argumentative with the customs people, that was a real stupid move. Not because of the driver, but because the gentleman in the rear of the car, that is when the customs officer said go over there and the customs officers began to search the car. She has insisted to me that at no time that the initial customs officer ever ask about firearms. I think that Comm. Ramirez hit it right on the head, it is basically a question of he said, she said. We are not here to determine what the truth or not the truth because we don't know what the facts are, we only know what certain allegations are made by the customs officer. We are here under Article 9, but based on what we've heard, does these mere allegations warrant suspension without pay? To answer your question whether if she is married or not, she is a single parent working as a police officer.

Comm. Norris stated this person will remain suspended without pay unless we vote to contravene. She asked if we contravene and then additional information from a Chief's Hearing came forward, can the suspension come back to us or once we contravene is that it?

Atty. Hooks stated if you contravene today and the Department chooses to bring forward some additional information to you, to consider with respect to this matter, then you can reconsider.

Comm. Norris stated asked so the Department could bring it back to us at a later date, even if we have contravened?

Atty. Hooks stated yes. I think things that have to be reconsidered have to be done within one week. So if they are going to do it, I would suggest that it would be done by next week.

Comm. Norris stated I guess the information that I would be looking for might not occur in one week. The tests were really suppose to apply here. I understand that Mr. Goldpaugh says these are allegations, but these are always allegations. The test is, is this conduct, if this happens sufficient that this person can't perform their duties?

Atty. Hooks stated that is correct.

Comm. Norris stated one of the test we applied, but not the only one, but one of the test we applied is would a person get fired for this. If the Department feels so strongly that they would get fired for this, then that suggests that they can't perform their duties. On the other hand, if the discipline the Department meets out is a one-day suspension or something like that, that suggests that it doesn't meet that test. This person hasn't gotten that far. And this is not a case what we know from past history what is likely to occur. She asked could we contravene and then if the Department does recommends dismissal, then they could bring it back and then some of us might.... Or is that too late?

Atty. Hooks stated I think that that is mixing oranges with apples at that point. Right now, we are just looking at the duty status and whether they are fit to perform at this time. But then, when you go on down the road and look at the Chief's hearing or a Trial Board then you are looking at the disciplinary aspect of it. These are two different tracks.

Comm. Norris stated I understand that. What I am saying is that one of the test for fit for duty is what the Department says is fit for duty, and they don't know that answer.

Atty. Hooks stated we are going to have to track to see what happens for future courses, but it would not be appropriate with this.

Vice Chairperson Blackwell asked are you saying that it is not appropriate to consider ...?

Atty. Hooks stated what we can do is go back and look at what has happened in the past with respect to these types of cases. And you can get a general idea of when others have gone over to Canada and failed or forgot to declare their weapon or whatever the case may be. What I am saying, is that it would be inappropriate in this case to hold up and say let's see what happens at a Trial Board or a Chief's Hearing and then we will take our action. At that point, you are mixing apples and oranges because you are looking at the duty status and making your decision based on a disciplinary action and that will be inappropriate.

Vice Chairperson Blackwell stated the Board by its actions is either concurring or not concurring the punitive action.

Atty. Hooks stated right.

Vice Chairperson Blackwell stated getting someone's paycheck is punitive.

Atty. Hooks stated right.

Vice Chairperson Blackwell stated whether or not if we contravene, then what we are saying, is not to take their money?

Atty. Hooks stated that's correct.

Comm. Norris stated at this point.

Vice Chairperson Blackwell stated today.

Comm. Norris stated right.

Vice Chairperson Blackwell stated whether you call it punitive or discipline, I think punitive and discipline at some point, even though you are right, they have a different termination. In the short term punitive and discipline for someone is having their paycheck taken away from them. He asked is it up to the Chief whether or not this person is suspended with pay or not?

Atty. Hooks stated right.

Vice Chairperson Blackwell stated this is the issue of whether or not based on our read of this particular situation whether we concur or not concur with the suspension without pay?

Atty. Hooks stated if you do contravene and the individual is suspended with pay. It is up to the Chief whether or not that person would be brought back.

Vice Chairperson Blackwell stated I agree with that. I would like to recommend to the Chair, that I would like to contravene the suspension.

MOTION: **Comm. Blackwell** made the motion to contravene the above suspension without pay.

SECOND: **Comm. Norris** seconded the motion.

VOTE: All in attendance voted in the affirmative.

Comm. Holley stated I don't think that you represented the officer very well because we had to pull information out of you.

Comm. Norris stated he is following the rules.

Atty. Hooks stated with respect to the past record or the disciplinary history of the employee, it is not relevant at this point in time because you are only look at that incident and the conduct that occurred at that particular point of time.

Comm. Holley asked what if it was her sixth time?

Atty. Hooks stated it doesn't matter at this point, it will when they go for a Chief's Hearing or Trial Board.

Unless contravened by this Commission, the above suspension without pay will stand.

There were contraventions to the above suspension without pay.

Suspension

On June 3, 2004, **Police Officer Kemberly Wilson**, Badge 192, assigned to the Police Athletic League, was suspended **without pay** by Chief Ella M. Bully-Cummings.

On March 29, 2004, the Professional Accountability Bureau, Internal Affairs Section, was notified of an allegation of misconduct on the part of Officer Wilson. More specifically, the allegation concerned misappropriation of funds. As a result, the Internal Affairs Section initiated an investigation, which revealed the following:

That the Bloomfield Township Police Department investigated Officer Wilson for misappropriation of funds from the Bloomfield Hills School Board. Officer Wilson was employed as a cheerleader coach for a high school in Bloomfield Hills, Michigan. An audit of the cheerleading account that Officer Wilson was in charge of, revealed \$1,300.00 was unaccounted for. The investigation further revealed, that documents and forms were altered.

The School Board was willing to accept restitution from Officer Wilson. However, after receiving two (2) insufficient fund checks, they pursued charges. On May 26, 2004, a felony warrant was issued against Officer Wilson, charging her with "Larceny by Conversion - \$1,000 or more but less than \$20,000."

On May 27, 2004, the Internal Affairs Section suspended Officer Wilson with pay. Also on this date, she appeared for arraignment in 48th District Court, Bloomfield Hills, Michigan. She was released on a personal bond of \$1,000.00. The preliminary examination is scheduled for July 12, 2004.

Based on the above circumstances, it is recommended that Officer Wilson be charged with, but not limited to the following violation of the Detroit Police Department Rules and Regulations:

CHARGE: CONDUCT UNPROFESSIONAL; CONTRARY TO THE LAW ENFORCEMENT CODE OF ETHICS, THIS BEING IN VIOLATION OF THE DETROIT POLICE DEPARTMENT MANUAL, SERIES 100, DIRECTIVE 102.3-5.7, CONDUCT UNBECOMING AN OFFICER, SECTION 3.

Unless contravened by this Commission, the above suspension without pay will stand.

There were no contraventions to the above suspension without pay.

RESERVED ORAL ARGUMENTS

Police Officer Frankie Sanchez, Badge 359 – Suspended without pay on May 20, 2004.

Atty. Goldpaugh stated I am here to request that the petition that was filed two weeks ago with respect to Officer Sanchez not take affect and that you disagree with the request. At the time that the request was made, but even as far as today, no criminal charges have been brought or filed against the officer. Officer Sanchez was involved in a police shooting, he fired his weapon and he gave a statement as required by the rules and regulations of the Department. It is also my understanding from a review of the petition and discussions with members of the Department that they don't believe Officer Sanchez that is what the bottom line is. They think that something different occurred. They might be in the process of attempting to obtain a warrant. Officer Sanchez is the potential defendant as opposed to the individual he fired shots at. My understanding is that the petition indicates that Officer Sanchez was the victim of a crime and the warrant may or may not have been obtained against the individual that he fired at, though I don't think that shots took effect. The main reason why I am here is because there has been nothing that has been filed criminal against this officer at this time and there has been nothing departmentally against this officer at this time. Therefore I believe that the department is premature in requesting that a suspension without pay take affect. If in fact, a felony warrant comes down against Officer Sanchez, then I won't be standing up here saying don't suspend him without pay now, let's wait and see how the whole thing comes out.

Comm. Norris asked is it true that he was on restricted no gun status?

Atty. Goldpaugh stated that is my understanding.

Comm. Norris asked but he had a gun?

Atty. Goldpaugh stated my understanding is that he was on that status. It is also my understanding from the information that I have been led to believe that he was at home with his girlfriend at the night in question, somebody was breaking into his car, and he went out when he took his gun at the spur of the moment.

Comm. Norris asked did he have a gun and did he shot a gun?

Atty. Goldpaugh stated that is correct.

Comm. Norris asked was he on a no gun restriction?

Atty. Goldpaugh stated that is my understanding. None of which is a firing offense and I understand that, but we are talking about should he be suspended without pay in this point in time.

Comm. Norris asked are these allegations sufficient to make him unfit for duty?

Atty. Goldpaugh stated right. We have mere allegations of an incident that occurred in May and yet we are here without any type of a warrant or any completion of an investigation and asking for a suspension without pay. Clearly that is wrong. Also when you look at the warrant request that was issued on May 26th with respect to Officer Wilson. We are contesting that without a complete investigation and without departmental or criminal charges being filed against Officer Sanchez as of this date. It is premature and it would be a violation of Article 9.

Atty. Ninowski stated it is the Department's petition to suspend the duty status of Officer Sanchez without pay. The issue before you is whether the conduct is egregious enough to warrant the suspension of that duty status without pay. Over the three or four years, we have gone through much litigation with respect to this issue. One thing that I think that I can say, with the utmost certainty, is that it is the conduct of the officer that is subject to evaluation. It is not whether or not the officer has been charged criminally with a misdemeanor or a felony. It is the conduct. The conduct of Officer Sanchez is what is in question here today. What it boils down to is: An off-duty Detroit police officer, who is carrying a weapon without authorization to carry a weapon, pursuing a vehicle in residential streets in the city of Detroit, discharging that firearm with one of the shots taking affect in the living room wall of a 75-year old homeowner's home.

Comm. Ramirez asked was that his own gun or was this a Department gun?

Atty. Ninowski stated it was his privately own weapon.

Vice Chairperson Blackwell asked did he have a CCW?

Atty. Ninowski stated no, he did not.

Vice-Chairperson stated he wouldn't be able to carry it if he didn't anyway.

Comm. Norris stated right, he is not allowed to have a gun.

Vice Chairperson stated that is a clear case of somebody doing something that they are not supposed to be doing. No one can carry a firearm, unless they are a police officer without a CCW.

Comm. Holley stated I need Mr. Goldpaugh to give me everything that I need to know.

Atty. Goldpaugh stated I don't have everything because we are not to argue facts, we are here to argue whether or not the actions should warrant a suspension without pay. My role is to argue whether or not the petition is properly framed under Article 9 of the Collective Bargaining Agreement, not whether or not Officer Sanchez committed a crime or not whether or not he was really the victim here. Ms. Ninowski talks about the arbitration decision and she referred back to **Pollard**. **Pollard** was an arbitration decision that dealt with facts, not with mere allegations.

Comm. Norris asked are you saying that your client did not have a permit to have a gun?

Atty. Goldpaugh stated he does not need one.

Comm. Norris stated he was on restricted duty, had the gun and shot the gun. Are you admitting to these allegations?

Atty. Goldpaugh stated I admit all of that.

Vice Chairperson Blackwell asked did you say he didn't need one?

Atty. Goldpaugh stated no, sir.

Vice Chairperson Blackwell asked you could take a gun out of your house without a CCW?

Atty. Goldpaugh stated he as a police officer carries a weapon.

Comm. Norris stated he is restricted.

Atty. Goldpaugh stated he is restricted, not suspended or not fired.

Vice Chairperson Blackwell stated that means that in terms of him carrying a gun, he would be considered a regular civilian, which means that he would need a CCW to carry it.

Atty. Goldpaugh stated no, sir.

Vice Chairperson asked is it a police issued gun?

Atty. Goldpaugh stated it doesn't have to be. If you look at the CCW statute....

Vice Chairperson Blackwell stated this is helpful, because we are going to change the law. You are trying to tell me that if we restrict a police officer from carrying a weapon, that is alright for him to carry one without a CCW.

Atty. Ninowski stated Officer Sanchez was restricted with a no gun provision on that restriction.

Atty. Goldpaugh stated that is a departmental provision. Once you are certified as a police officer, you can carry your weapon.

Vice Chairperson Blackwell asked whether it is yours or the Department's?

Atty. Goldpaugh stated yes.

Comm. Norris asked what does a no gun restriction mean?

Atty. Goldpaugh stated it means that the Department is restricting him from carrying a weapon.

Comm. Norris asked so the Department is saying you can't carry a weapon?

Atty. Goldpaugh stated that is correct. According to state licensing, he cannot be found guilty of carrying a concealed weapon because he is licensed by the standards of MCOLES.

Vice Chairperson Blackwell stated we cannot allow that conflict to continue.

Comm. Norris stated because he is violating the Department.

Vice Chairperson Blackwell because what he is saying is forget what you say the state law supercedes what you say.

Atty. Goldpaugh stated he could be punished by the Department for it.

Comm. Holley asked because he is put restriction, it does not take his police status away?

Atty. Goldpaugh stated no.

Comm. Holley stated he is still a police person.

Atty. Goldpaugh stated that is correct.

Comm. Holley stated I don't care what the state says, the point is he was a police person.

Atty. Goldpaugh stated that is correct.

Comm. Holley stated he was restricted as a police person and he violated a restriction as a police person.

Atty. Goldpaugh stated as a police officer, that is correct.

Comm. Holley stated therefore my judgment is based upon a police person.

Vice Chairperson Blackwell stated my issue is that if you are restricted with a no gun policy or suspended for some reason in affect, you are not acting in capacity of a police officer, meaning that you should not be arresting people or doing anything else.

Atty. Goldpaugh stated if you are suspended, I agree.

Vice Chairperson Blackwell stated I feel that we need to make policies that clarify these types of conflicts.

Unless contravened by this Commission, the above suspension without pay will stand.

There were no contraventions to the above suspension without pay.

Exec. Dir. Goss acknowledged Sherry Woods from the Monitor's Office, who is auditing the Office of the Chief Investigator's files.

ANNOUNCEMENT OF GENERAL ORDERS

On June 3, 2004, the Board of Police Commissioners Office received the following General Orders (Directives):

- **Directive 202.2 – Search and Seizure**
- **Directive 305.1 – Detainee Intake/Assessment**

These directives will be presented for discussion at the Board of Police Commissioners' community meeting on June 10, 2004.

CITIZEN COMPLAINTS RECEIVED

	<u>This Week</u>	<u>Year to Date</u>
2004 - Weekly Count of Complaints:	37	618
2003 - Weekly Count of Complaints:	20	490

5. REPORT/PRESENTATION – CHIEF OF POLICE

DETROIT POLICE DEPARTMENT

REPORT TO THE BOARD OF POLICE COMMISSIONERS



BUILDING A SAFER DETROIT THROUGH COMMUNITY PARTNERSHIPS.

The Detroit Police Department is committed to uphold its mission to provide a safe environment for our residents and businesses. This effort is not possible without the joint commitment of the community and the Police Department.

ENFORCEMENT ACTIONS

On May 26, 2004, the Narcotics Enforcement and Conspiracy Sections conducted 23 enforcement actions within the boundaries of the Fourth and Eighth Precincts, resulting in the following arrests and confiscations:

- ◆ 10 Felony arrests
- ◆ 50 Misdemeanor arrests
- ◆ 1 Juvenile detained
- ◆ 33.7 Grams of cocaine, 7.5 grams of heroin and 181.1 grams of marijuana - street value \$27,704.00
- ◆ \$73,566.00 U.S. currency
- ◆ 8 Handguns
- ◆ 47 Miscellaneous Ordinances issued

On May 29-31, 2004, the Vice Section conducted enforcement actions within the boundaries of the Fourth Precinct and Hart Plaza area, resulting in the following arrests:

- ◆ 16 Arrests for Disorderly Conduct – Flagging
- ◆ 20 Cited for Urinating in a Public Place
- ◆ 5 Cited for Minor in Possession/Consumption of Alcoholic Beverage
- ◆ 1 Cited for Disorderly Conduct - Begging
- ◆ 42 Miscellaneous Ordinances issued

EIGHTH PRECINCT

On June 2, 2004, officers of the Eighth Precinct received a police run to the area of Faust and Martin to investigate three (3) men with flashlights searching the area. As a result, the following arrest and confiscations were made:

- ◆ 1 Felony arrest
- ◆ 16,000 Grams of cocaine and 1,000 grams of heroin – street value \$8,200,000.00
- ◆ \$43,150.00 U.S. currency
- ◆ 2 Handguns

SEX CRIMES UNIT

On November 5, 2003, May 6, 21, 27, 2004, four (4) females (ages 16-18) were abducted at gunpoint and three (3) sexually assaulted; one female escaped. As a result of the Sex Crimes Investigation, the wanted subject was arrested on May 27, 2004, and charged with "First Degree Criminal Sexual Conduct," "Second Degree Criminal Sexual Conduct," "Assault With Intent To Commit Sexual Penetration," and "Armed Robbery."

COMMUNITY RELATIONS

SECOND PRECINCT – TEENS IN PROGRESS PROGRAM

The Second Precinct is working in conjunction with Mackenzie High School, the Detroit Public Schools Safety Officers and high school instructors to create a program entitled "Teens In Progress." This is a mentoring program designed to support families with teenagers (ages 13-18) who exhibit troubled behavior or are academically at risk. The following are the program objectives: 1) Drug abuse, 2) Self-esteem, 3) Sexual awareness, 4) attitude, 5) Teen pregnancy, 6) Academics, 7) Conflict resolution, and 8) Proper etiquette.

TRAINING

SPECIAL RESPONSE TEAM – TRAINING

During the week of May 26, through June 1, 2004, members of the Special Response Team completed training at Fort Custer Military Base in Battle Creek, Michigan. The training consisted of land navigation, rappelling, tactical shooting and team movement at night.

CHIEF OF POLICE ELLA M. BULLY-CUMMINGS

6. APPEALS ARGUED

Comm. Norris Chaired the Appeals Subcommittee:

DISCIPLINARY APPEALS ARGUED

MAY 20, 2004

POLICE OFFICER LARRY BARNETT
Badge 2841

BPC 03-020D

Charge

Wilfully Making a False Oral or Written Statement or Report, one specification.

Trial Board Decision and Penalty

Guilty. Sustained the suspension of five (5) days meted out at the Chief's Hearing.

Recommendation

Uphold the decision of the Trial Board in its entirety.

MOTION: **Comm. Norris** made the motion to approve the Recommendation.

SECOND: **Comm. Blackwell** seconded the motion.

VOTE: All in attendance voted in the affirmative.

POLICE OFFICER VAUGHN WATTS
Badge 2395

BPC 04-001D

Charge Conviction in a Court of Criminal Jurisdiction,
one specification.

**Trial Board Decision
and Penalty** Guilty. Ordered dismissed from the
Department.

Recommendation Uphold the decision of the Trial Board in its
entirety.

MOTION: **Comm. Norris** made the motion to approve
the Recommendation.

SECOND: **Comm. Ramirez** seconded the motion.

VOTE: All in attendance voted in the affirmative.

Vice Chairperson Blackwell asked when they say conviction in a court of
criminal jurisdiction, could that be a misdemeanor or a felony?
Comm. Norris stated it could be. In this particular case it was a felony, but it
could be.

7. OTHER BUSINESS

Vice Chairperson Blackwell stated we have proposed to hire three individuals,
but we are prepared to hire Carmen Russell and Tracie Roberts as Police
Commission Investigator's at the Office of the Chief Investigator (OCI).

My recommendation is that we concur with the hire of these two individuals today
and hold the other in abeyance for further discussion.

MOTION: **Comm. Blackwell** made the motion to approve
the new hires.

SECOND: **Comm. Norris** seconded the motion.

VOTE: All in attendance voted in the affirmative.

Chairperson Hampton stated the Recruiting Unit is here to give us some information.

PO Quentin Maxey and **PO Miguel Benavides** stated we are here today to announce that the Recruiting Unit will be hosting their first Chili Cook Off Competition this weekend. We will be in collaboration with the Detroit Fire Department's Engine 40. It will be held on June 5, 2004 at 12:00 p.m. – 4:00 p.m. at 14655 Dexter. Commissioner Ramirez will also be our celebrity judge.

PO Benavides thanked Comm. Ramirez for volunteering to help out with the cook off.

PO Maxey stated we really need help because the state of Michigan is now charging several fees in order to process. We were hoping to get away from that, but right now we are not. Most people don't know that the state requires a \$60 fee to be paid by way of debt or credit card, in order to take the written examination, which is 120 multiple choice questions. Also, there is a \$40 fee for the physical fitness test. So, we are looking at \$100, but my thing with that is that is that this is a rewarding career and this has been great for me. Certainly, we wished that we made more money. However, a \$100 contribution to a wonderful career in law enforcement is not a lot to ask. We would like to ask the Commission to support this event and we definitely need help in the city of Detroit.

Comm. Ramirez asked do you have flyers for the Commission?

PO Maxey stated yes and we also have a recruiting booth where we are able to accept applications on the spot.

Comm. Holley asked do we put a lot of emphasizes on the careers or fields in the police department? He also stated if you can find 5 men or 5 women, who are good candidates that don't have the \$100, then I know someone that would give a scholarship to them.

PO Maxey stated we are in partnership with Detroit Job Corp and we have their full support in terms of helping candidates that we identify with a payment.

Comm. Holley stated I would like to see more emphasizes on the careers in the police department rather than just police men or police person.

PO Maxey stated part of our recruiting speech is to glorify various positions within this department.

Dir. Bryant-Weekes commended the recruiters on coming up with the cook off and being creative in our quest to attract people to the police department. In regards to Comm. Holley, we are at the tail end of the Hiring in the Spirit of Service Grant. As a part of that grant we were giving thousands of dollars to hire a marketing firm. The marketing firm is helping us come up with a recruiting campaign that will address those very issues. We held several focus groups a few weeks ago and the participants in those focus groups indicated that they would like to know about other careers in the police department. Although they would have to understand that at the Chief's prerogative they may be required to go to patrol first and that those careers are available in the police department. The marketing firm that was hired through the grant has addressed those issues and will presenting to us next week. They will also present a preliminary marketing campaign, which will then be discussed by the committee and presented to the Chief for her approval and then disseminated throughout the city of Detroit on billboards, commercials, television or radio advertisements, flyers and etc.

Comm. Ramirez asked do you do much recruiting at the junior high school level?

Dir. Bryant-Weekes stated the officers from the Community Policing Services Unit give presentations to junior high school students.

Comm. Ramirez stated some of our youngsters have something smudged in their high school records that are not expunged and it is affecting those trying be police officers.

Dir. Bryant-Weekes stated the officers do go to junior high schools and elementary schools to let the students or children know about things that they should look out for and things that would eliminate them from being a police officer.

Comm. Ramirez asked are these only two officers that give recruiting presentations for the city of Detroit.

Dir. Bryant-Weekes stated we have 6 field recruiters and 14-15 background investigators.

Comm. Ramirez asked how many recruiters do you need?

Dir. Bryant-Weekes stated we were budgeted for 41 officers.

Vice Chairperson Blackwell stated think that the police department is beginning to look less and less like the city of Detroit and that is a real issue when you talk about community policing. We need to change this whole paradigm on how we approach the requirements for recruiting and hiring. He asked what is the starting salary for an officer?

Dir. Bryant-Weekes stated \$29,000.

Vice Chairperson Blackwell stated we find people who have joined this police department from outside the city of Detroit and receive superior training and then they leave in a couple of years to go out to where ever they go out to and double or increase their salary significantly. So, they use it kind of as a training ground or as a stepping stone to other things. There needs to be some emphasis put on how do we empower within our own community. Maybe we need to not just look at where could go within the police department, but where can you go in the city or in the corporate structure of the city of Detroit. We need to not just look at it as the culture of the police department, but the culture of the whole community and embrace what police officers really are. One of my pet peeves is the impact of residency and the whole issue. My issue is that you have one officer that lives in Detroit and one officer lives outside of Detroit. The officer in Detroit pays more than ½ percent more out of his salary and taxes or the other. Maybe we need to find a way to help the person, if we want people to.... We need to do something or this thing is going to continue to be to the extinct where it is kind of like going to police college for some because they get the training and then they leave. It amazes me that you could be the worse sinner in the world and go to heaven, but you can't make one mistake and be a police officer, but you could do all of that and be president of the United States. We are kidding ourselves, that you can't scrape your thumb and then be a police officer, there is something sinister about that to me. For example, we get caught up because a guy stole \$50 when 14 and he can't ever be a police officer, that has to stop and we need to quite playing games like they are not human. The best thing in the world is to get a kid who had a few knocks came up through the community and became a better person. If an officer's job is to protect and serve, 85% of the people here protect and serve the people that had those very same problems. I am not talking about hiring somebody that is a murderer or a drug dealer, but looking at someone's credit score, if they looked at the city of Detroit's credit score, we wouldn't be able to borrow money. I would like to here you guys talk one day outside of the meeting about what you really need because I think that is what we are not getting. I need to know what rules would you suspend, what things are not import, what things are absolutely critical as far as you concern for a good police officer. I have a problem with what someone did at 13 and 14 and hold that against them at 20 or 21. You guys can't fight that by yourself, the community has to fight that with you. We need to have some honest and hard debates because I am prepared to change the recruiting requirements, if we can do that.

Comm. Norris stated to the extent that it doesn't affect the state law, we can absolutely do that.

Vice Chairperson Blackwell stated I am prepared to do that. I need to know from the two recruiters, Dir. Bryant-Weekes and others.... We need to get some kids from our community to be on the police department, so that we could make it a real community police department. If that does not happen, then in 10 to 15 years then we won't know our police officers because they will be from somewhere else.

Dir. Bryant-Weekes stated the Academy does sponsor a police youth academy during the summer for ages 13-16. Secondly, the Law Department is revisiting the issue as it relates to the contract that the Michigan Supreme Courts deem to be unconstitutional as related to us having a three year rule and requiring officers who left prior to a certain to reimburse us for their Academy training.

Comm. Holley suggested that the Recruiting Unit should do a Preacher's Pick concept. The purpose of this program will help you to recruit more officers if you can have a pastor to pick a member from their church and provide a \$100 scholarship.

Dir. Bryant-Weekes stated we are revising the SOP.

Comm. Holley asked what is SOP?

Dir. Bryant-Weekes stated it is the Standard Operating Procedures for Recruiting.

AC Shoulders stated we do have programs in the schools to reach children on the middle school level. He also stated the Chief, AC Cureton and I are aware of the issues that you spoke of earlier and we are looking into them.

Vice-Chairperson Blackwell asked how much does it cost to go to the Academy?

PO Maxey stated approximately \$5,000.00.

Vice-Chairperson Blackwell suggested that the police department should ask companies to sponsor scholarships, which would help applicants that can't afford to attend the Academy.

8. ORAL COMMUNICATION FROM THE AUDIENCE

Sandra Hines stated she is happy that she attended the meeting today because she was able to touch on the issues that were brought forth today. It is refreshing to see that an impact is being made and that the Detroit Police Coalition Against Brutality is not in vein. She voiced her concerns regarding Officer Unika Patrick taking her department weapon to Canada. Citizens expect the same compassion that they give to the officers to be given to them.

Phillip Craccioholio stated people should attend these meetings and express their opinions to officials, who can do something. He asked is there an ordinance on homosexuality? What is the police department doing with the situation in Palmer Park?

Vice Chairperson Blackwell stated there is no ordinance against homosexuality, but there is an ordinance against eluding serious behavior in public.

AC Shoulders stated we enforce the laws fairly and equally regardless of a person's sexual orientation. We would take the same action if they were homosexual or heterosexual because we don't tolerate or encourage obscene conduct in the public. We also have taking complaints regarding heterosexuals and homosexuals making out in the park and we take the appropriate and proper action.

PO Maxey asked if the Board of Police Commissioners or the Chief could send out an administrative message or teletype re-advising what the policy and procedure is as it relates to firearms in Canada.

Ms. Walters voiced her concerns that everyone should flag the American Flag. She also stated that everyone in the community should be taught how to be respectful to one another and love each other.

9. ANNOUNCEMENT OF NEXT MEETING

Thursday, June 10, 2004, @ 6:30 p.m.
Shiloh Chapel
14841 Eastburn
Detroit, MI 48205

10. ADJOURNMENT

Meeting was adjourned at 5:10 p.m.

Respectfully Submitted,

DANTE' L. GOSS
Executive Director
Board of Police Commissioners

DLG/kdw